

S.B. Civil Misc. Appeal NO.430/2005

Harman Kaur
vs
Jagraj Singh & Anr.

DATE OF ORDER : - 19.4.2005.

HON'BLE MR. PRAKASH TATIA,J.

Mr.HS Sandhu, for the appellant.

<><><>

Heard learned counsel for the appellant.

The appellant is aggrieved against the order of the trial court dated 4th April, 2005 by which the appellant's application for grant of temporary injunction was dismissed by the trial court.

According to learned counsel for the appellant, the appellant entered into an agreement to purchase the agricultural land by agreement dated 15.3.2003 and the vendor executed a power of attorney in favour of power of attorney holder also for execution of the sale deed, but before the sale deed could have been executed, the power of attorney was cancelled. It is also submitted that appellant filed the suit for specific performance of contract and the possession has already been delivered to the appellant and this fact is mentioned in the various documents also. Therefore, the trial court should not have dismissed the injunction application of the appellant.

I considered the submissions of learned counsel for the appellant. As mentioned in the impugned order substantially which are not in dispute that there is allegation of family settlement on 29th April, 2002 and alleged agreement was executed on 15.3.2003 and dispute arose and, thereafter, the power of attorney was cancelled by the vendor. She took a plea that she only authorized the power of attorney to enter into the agreement for sale of the property. It appears from the facts of the case that the trial court has considered the facts in detail and found that the appellant has not come with clean hands and there appears to be certain suspicious circumstances.

In view of the above, there is no prima facie case in favour of the appellant. After going through all the facts, this Court also is of the opinion that the appellant could not prove prima facie case and until and unless he gets the decree, he cannot get any relief in the application under Order 39 Rule 1 and 2 CPC.

Hence, the appeal of the appellant is dismissed.

(Prakash Tatia), J.

c.p.goyal/-